Appendix.

Supreme Court, Appellate Division, Second Judicial Department—The People of the State of New York, Respondent, v. Murray Shapiro, Appellant.

> "Defendant appeals from a judgment of the County Court of Kings County, convicting him of the crimes of conspiracy, filing a false and fraudulent claim in a contract of insurance, and attempted Grand Larceny in the first degree. Judgment unanimously affirmed. No exceptions were taken to the alleged errors in the charge of the court, and such errors, if any, did not affect the substantial rights of the defendant. (Code Crim. Proc. § 542.)"

Court of Appeals—State of New York——The People of the State of New York, Respondent, v. Murray Shapiro, Appellant.

> "Appeal, by permission, from a judgment of the Appellate Division of the Supreme Court in the second judicial department, entered November 27, 1940, which unanimously affirmed a judgment of the Kings County Court (Garvin, J.) entered upon a verdict convicting the defendant of the following crimes, growing out of an attempt to collect insurance under a policy insuring the owner of jewelry (not the appellant herein) against the loss thereof, based upon a false claim that the jewelry had been stolen: (1) Conspiracy under two counts; (2) presenting a false and fraudulent claim of loss; and (3) attempted grand larceny in the first degree. An examination of the record of the trial disclosed evidence sufficient to sustain the verdict and absence of reversible error."

Statutory Provisions.

Section 580, Penal Law:

"§ 580. *Definition and punishment of conspiracy*

If two or more persons conspire:

1. * * *; or,

2. * * *; or,

3. * * *; or,

4. To cheat and defraud another out of property, by any means which are in themselves criminal, or which, if executed, would amount to a cheat, or to obtain money or any other property by false pretenses; or,

5. * * *; or,

6 * * *,

Each of them is guilty of a misdemeanor."

Section 1202, Penal Law:

"§ 1202. *Presenting false proofs of loss in support of claim upon policy of insurance*

A person who knowing it to be such:

1. Presents, or causes to be presented, a false or fraudulent claim, or any proof in support of such a claim, for the payment of a loss upon a contract of insurance; or,

2. Prepares, makes or subscribes a false or fraudulent account, certificate, affidavit or proof of loss, or other document or writing, with intent that the same may be presented or used in support of such a claim,

Is punishable by imprisonment for not more than five years, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment."

Section 2, Penal Law:

"§ 2. *Definitions*

* * *

Attempt to commit a crime. An act, done with intent to commit a crime, and tending but failing to effect its commission, is 'an attempt to commit that crime'."

Section 1294, Penal Law:

"§ 1294. *Grand larceny in first degree*

A person is guilty of grand larceny in the first degree, who steals, or unlawfully obtains or appropriates, in any manner specified in this article:

1. Property of any value, by taking the same from the person of another in the night time; or,

2. Property of the value of more than twenty-five dollars, by taking the same in the night time from any dwelling-house, vessel, or railway car; or,

3. Property of the value of more than five hundred dollars, in any manner whatever."

Section 391, Code of Criminal Procedure:

"§ 391. *Separate trial of defendants jointly indicted*

Defendants, jointly indicted, may be tried separately or jointly in the discretion of the court."

Section 542, Code of Criminal Procedure:

"§ 542. *Courts to give judgment, without regard to technical errors, defects or exceptions, not affecting substantial rights.*

After hearing the appeal, the court must give judgment, without regard to technical errors or defects or to exceptions which do not affect the substantial rights of the parties."